

# Insurance legalities: Why you should report a claim as soon as possible

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Insurance claims can be repudiated for many varying reasons - from the most obvious to the least expected reasons. One of the best ways of trying to avoid an insurance repudiation is to understand your contractual duties stemming from your policy. Although this does not guarantee a payout, it does, nonetheless, enhance one's chances of succeeding in a claim.



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In liability insurance policies (mainly), there is almost always a “notification clause” which requires that an insured notifies the insurer of any event/occurrence that may potentially lead to or attract liability. The significance of these clauses is explained below. Additionally, most insurance policies require the insureds to report/submit an insurance claim within a certain number of days. Failure to adhere to these requirements may result in a rejection of an otherwise valid claim. It is thus worth delving into the legalities of these clauses.

## Duty to notify the insurer

Clauses that require insured people to notify insurers of any occurrence that may result in liability form part of the terms and conditions of an insurance contract and are therefore binding.

The courts have long recognised the significance of such clauses for insurers in that prompt notification places an insurer in a position where it can try to mitigate further losses, make assessments, commence with investigations, etc. Failure by an insured to adhere to such a contractual term may cause serious prejudice to the insurer, and a breach may allow an insurer to repudiate an otherwise valid claim.



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Whilst this requirement may seem simple on face value, in practice, it does come with certain challenges. For example, an insured may be uncertain as to whether the incident is significant enough to warrant notifying an insurer; there may be circumstances that prevent immediate reporting; etc. The courts have held that the test to be applied when dealing with such clauses is an objective test enquiring what was reasonable and requiring an investigation of the prevailing circumstances at the relevant time.

### **Reporting/submitting their claim timeously**

It is also normal to find a requirement in short-term insurance policies, and particularly liability policies, that a claim should be reported or submitted “as soon as practicably possible” or within a certain number of days. Where there are sound grounds for non-adherence, however, an insurer (or a presiding officer, if applicable) may condone non-adherence. This would, among other things, be in line with the “treating customers fairly” principle.

### **Conclusion**

It is crucial to understand and adhere to policy requirements. When in doubt, insureds should seek clarification from their insurer or broker. Importantly, if a claim has been rejected, insureds should also seek legal advice regarding the lawfulness of the rejection.

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